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GOVERNOR

STATE OF MAINE
DEPARTMENT OF CONSERVATION
LAND USE REGULATION COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

PATRICK McGOWAN
COMMISSIONER

PERMIT

GREAT PONDS PERMIT GP 3274
And Water Quality Certification

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by State of Maine Bureau of Parks and Lands for Great Ponds Permit GP 3274, finds the following facts:

1. Applicant: State of Maine
   Bureau of Parks and Lands
   Attn: Matt Laroche
   P.O. Box 1107
   Greenville, Maine 04441

2. Date of Completed Application: February 23, 2007

3. Location of Proposal: Chesuncook Township, Piscataquis County
   Part of Lot # 1.1 on Plan 01 (leased)

4. Zoning: (P-RR) Recreation Protection Subdistrict
   (P-SL1) Shoreland Protection Subdistrict
   (P-WL) Wetland Protection Subdistrict

5. Affected Waterbodies: Penobscot River and Chesuncook Lake

   The Commission has identified Chesuncook Lake as a resource class 1A, management class 2, relatively accessible, relatively undeveloped lake with outstanding fisheries, wildlife, scenic, botanical, cultural, and physical resources. Chesuncook Lake is a flowed lake.

Background

6. The applicant leases an approximately 200 foot by 200 foot lot from Brookfield Power U.S. Holding America Company, with frontage on the Penobscot River. The lot is developed with a remote campsite, and is within a (P-RR) Recreation Protection Subdistrict.

Proposal

7. The applicant proposes to install rock riprap over filter fabric along a 6 foot wide by 120 foot long area of eroding shoreline along the Penobscot River. The purpose of the riprap is to stabilize ongoing erosion resulting in sedimentation to river and downstream to Chesuncook Lake. The applicant would first remove existing tree roots exposed by water erosion along the shoreline of the river, and would install the riprap by hand. The work would be done during a period of low water, above the water level, and above the normal low water mark. The riprap would extend below the normal high water mark approximately three feet, or only enough to key it in at the base of the slope. All areas of disturbed mineral soil above the normal high water mark would be stabilized with mulch and revegetated using seed and willow waddles.

8. The proposal would alter approximately 360 square feet of (P-WL1) Wetland Protection Subdistrict. The applicant has requested the level of wetland review be reduced from Tier 3 to Tier 2 because of the small size of the alteration area, and that no functional assessment is necessary to evaluate the effect of the proposed activity on the area of shoreline affected.

9. The applicant submitted a wetland delineation and alternatives analysis, as required for a Tier 3 wetland review. The alternatives analysis indicated that the project is needed to stabilize the shoreline and prevent the erosion of the shoreline bank and sedimentation to the Penobscot River and Chesuncook Lake. The applicant also states that the only other alternative would be to close and move the campsite, which would not resolve the on-going erosion and sedimentation problem, and would only serve to create additional disturbance to the shoreline by the creation of a new shorefront campsite.

Review Criteria

10. Pursuant to Sections 10.23,N,3,c(10), 10.23,L,3,c,(16), and 10.23,I,3,c,(8) of the Commission's Land Use Districts and Standards, shoreland alterations are an allowed use with a permit in a (P-WL1) Wetland Protection Subdistrict, (P-SL1) Shoreland Protection Subdistrict, and (P-RR) Recreation Protection Subdistrict respectively.

11. Pursuant to Section 10.25,P,1,c(3) of the Commission's Land Use Districts and Standards, projects altering any area of P-WL1 wetlands require a Tier 3 review. Alterations of P-WL1 wetlands may be eligible for Tier 1 or 2 review if the Commission determines, at the applicant's request, that the activity will have no undue adverse impact on the freshwater wetlands or other protected resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected features.

12. Pursuant to Section 10.25,P,2 of the Commission's Land Use Districts and Standards, projects requiring Tier 2 review must not cause a loss in wetland area, functions, and values if there is a practicable alternative to the project that would be less damaging to the environment. Projects requiring a Tier 2 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project; must comply with applicable water quality standards; and use erosion control measures to prevent sedimentation of surface waters. Each Tier 2 application

must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. Projects requiring a Tier 2 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project.

13. Pursuant to Section 10.25,P,1,b(2) of the Commission's Land Use Districts and Standards, if a proposed activity requires a permit and will alter 500 or more square feet of a P-WL1 wetland or 20,000 or more square feet of a P-WL2 or P-WL3 wetland, the Commission may require, as a condition of approval, mitigation, including compensation, as provided in the Commission's General Land Use Standards in Section 10.25,P,2.

14. The Maine State Soil Scientist has reviewed the application and commented that structural soil stabilization is needed at the proposed site due to ongoing erosion, and expressed no objections to the activity as proposed.

15. The Maine Department of Inland Fisheries and Wildlife regional fisheries biologist reviewed the application and commented that he has no reservations regarding the proposal.

16. The Maine Historic Preservation Commission reviewed the application and had no objections to the proposal, because the site was previously surveyed and there was no evidence of historical or archeological activity.

17. The Maine Natural Areas Program reviewed the application and commented that it has no records of rare or botanical features that would be disturbed within the project site by the proposed activity.

18. The United States Army Corps of Engineers reviewed the application and issued a Category 2 General Permit (# NAE-2006-3138) authorizing the proposed project.

19. Brookfield Power U.S. Holding America Company reviewed the application and stated that it has given permission to the applicant to conduct the proposed activity at their property.

20. The facts are otherwise as represented in Great Ponds Permit Application GP 3274 and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The proposed shoreland alteration would be in conformance with the provisions of Sections 10.23,E,3,c(15); 10.21,I,3,c(8); 10.23,L,3,c,(16); and 10.23,N,3,c(10) of the Commission's Land Use Districts and Standards.

2. The proposed shoreland alteration meets the requirements for reduction from a Tier 3 to a Tier 2 wetland review in accordance with the provisions of Section 10.25,P,1,c(3) of the Commission's Land Use Districts and Standards, in that the activity would have no undue adverse impact on the freshwater wetlands or other protected resources present, and in fact would eliminate ongoing sedimentation to the Penobscot River and Chesuncook Lake by stabilizing the eroding bank. Specifically, the area of impact to the P-WL1 wetland would be minimal and limited to that which is needed to stabilize the eroding bank, would be

completed when the water level is below the work area, and would not adversely affect surrounding uses and resources.

3. The proposed activity would meet the provisions of Section 10.25,P,2 of the Commission's Land Use Districts and Standards in that the applicant has demonstrated that there is no practicable alternative to the project that would be less damaging to the environment. Specifically, no practicable alternative exists that would impact a smaller wetland area and still stabilize the eroding river bank. Additionally, the impact to the P-WL1 wetland would be limited to only that which is needed to install the riprap on the eroding bank; and the project would be completed when the water level is below the work area, which will prevent sedimentation and minimize water quality impacts. The water quality classification of the Penobscot River and Chesuncook Lake is unlikely to be affected by the project.

4. In accordance with the provisions of Section 10.25,P,1,b(2) of the Commission's Land Use Districts and Standards, the proposal is exempt from the requirement for functional assessment or compensation because the P-WL1 wetland alteration would be less than 500 square feet.

5. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

Therefore, the staff approves the application of the State of Maine, Bureau of Parks and Lands, with the following conditions:

1. The Standard Conditions for Shoreland Alterations (ver. 4/91), a copy of which is attached.

2. Riprap shall be installed in accordance with the Standards for Installation of Riprap (ver. 4/91), a copy of which is attached. Notwithstanding Condition #4 of the Standards for the Installation of Riprap, rocks may be placed below the normal high water mark and above the normal low water mark of the Penobscot River only to the extent needed to key the rock riprap into the river bottom to create stable banking.

3. Any excavation or construction must be done when the lake water level is lower than the work area.

4. The total area of P-WL1 wetland alteration must not exceed 500 square feet.

5. All debris or excavated material must be removed from the waterbody, prevented from washing downstream, stockpiled above the normal high water mark, and not placed within a wetland. Silt fencing or hay bales must be used to prevent sedimentation from all stockpiled materials.

6. The width of the disturbance area below the normal high water mark must be minimized to only that which is needed to key the rock riprap into the river bottom to create stable banking. Excavated materials must be disposed of in accordance with Condition #5 above.

7. All erosion and sedimentation control structures must be installed prior to commencement of construction. Once implemented or put in place, erosion control devices and measures must be maintained to ensure proper functioning.

8. All areas of disturbed mineral soil above the normal high water mark must be promptly reseeded, replanted, and stabilized with mulch, and maintained in a vegetated state to prevent soil erosion. In areas where revegetation is not initially successful, additional measures to control erosion and sedimentation must be undertaken as often as necessary to be effective.

9. Rocks must not be removed from the shoreline other than from the area being rip-rapped.

10. All construction must be done by hand.

11. Should any erosion or sedimentation occur during construction, the permittee shall contact the Land Use Regulation Commission immediately, notifying it of the problem and describing all proposed corrective measures.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Regulation Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT AUGUSTA, MAINE THIS 28th DAY OF FEBRUARY, 2007

By: _____
for Catherine M. Carroll, Director